

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

AUDREY L. KIMNER,  
Plaintiff,

v.

CAPITAL TITLE OF TEXAS, LLC, et al.,  
Defendants.

Case No. [5:19-cv-07576-EJD](#)

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION**

Re: Dkt. No. 22

Before the Court is Plaintiff Audrey Kimner's motion for reconsideration.<sup>1</sup> Plaintiff asks this Court to reconsider its March 2020 order, which dismissed Plaintiff's claims with prejudice. *See* Dkt. 16. Plaintiff subsequently appealed that order.<sup>2</sup> Dkt. 17.

Reconsideration of a final judgment, order, or proceeding is appropriate if the district court (1) is presented with newly discovered evidence; (2) committed clear error or the initial decision was manifestly unjust; or (3) if there is an intervening change in controlling law. *See, e.g., School Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). A motion for reconsideration may not be used to raise arguments or present evidence for the first time when they could reasonably have been raised earlier in the litigation. *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003).

<sup>1</sup> In this District, parties must first file a motion for *leave* to file a motion for reconsideration. *See* N.D. Cal. Civ. L.R. 7-9(a). Plaintiff Kimner only filed a motion for reconsideration. Given Plaintiff's pro se status, the Court interprets Plaintiff's motion as asking for leave to file a motion for reconsideration. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (discussing the lower standard for pro se plaintiffs, namely that they are held to "less stringent standards" with respect to pleadings).

<sup>2</sup> This ground alone prevents the Court from granting Plaintiff's motion for reconsideration. *See* N.D. Cal. Civ. L.R. 7-9(a) (requiring the motion to be brought before entry of judgment).

1 Plaintiff presents the Court with evidence that she had in her possession when she  
2 originally filed her motion. She argues that this evidence shows that her claims are meritorious.  
3 Even ignoring the other problems with Plaintiff's Complaint, see Dkts. 13, 14, 15, this evidence is  
4 not "newly discovered" and so it does not create cause reconsideration. Accordingly, Plaintiff's  
5 motion for reconsideration is **DENIED**.

6 **IT IS SO ORDERED.**

7 Dated: June 25, 2020

8   
9 EDWARD J. DAVILA  
United States District Judge

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
United States District Court  
Northern District of California